

### **REMARKS**

The final Office Action of March 5, 2009, has been reviewed and the Examiner's comments carefully considered. Claims 7, 13, 16, 22, 25 and 26 have been amended and new claims 27-29 have been presented by way of this Amendment, claims 1-6 and 10 being previously cancelled. Accordingly, claims 7-9 and 11-29 are currently pending in this application, and claims 7, 16 and 25 are in independent form. Support for the amendments made herein can be found in Figs. 1-11 and page 3, line 3 to page 5, line 5 of the specification. Applicant respectfully submits that no new matter is being presented by way of this Amendment.

Claims 7-13, 22, 25 and 26 stand rejected under 35 U.S.C. §112, second paragraph, because claim 7 is allegedly unclear as to whether the subcombination of the gutter mounting device or the combination of the gutter and the mounting device is being claimed, the limitation "the inner wall" in claim 9 allegedly lacks antecedent basis, and the limitation "a fall angle" in claims 13, 22, 25 and 26 is unclear.

With respect to claim 7, the Office Action refers to the positively recited "gutter mounting section" as being part of the gutter and not part of the claimed gutter mounting device. Applicant respectfully submits that this interpretation is incorrect. Claim 7 presently recites "the mounting device comprising an elongated device body . . . , the body including an attachment section . . . and a gutter mounting section, the gutter mounting section including a plurality of gutter retaining clips." Applicant submits that the gutter mounting section is clearly recited in claim 7 as forming part of the subcombination of the gutter mounting device and not as part of the gutter. The Examiner's further attention is directed to Figs. 1 and 2 and page 3, line 3 to page 4, line 2 of the specification describing the gutter mounting section (15). In view of the foregoing remarks, reconsideration and withdrawal of this rejection are respectfully requested.

With respect to claim 9, this claim is dependent upon claim 8, which recites "the legs of the U-shaped portion being spaced apart so as to provide a recess therebetween for receiving part of an inner wall of the gutter proximal to the building." Applicant submits that

claim 8 provides sufficient antecedent basis for the limitation “the inner wall of the gutter” in claim 9. In view of the foregoing remarks, reconsideration and withdrawal of this rejection are respectfully requested.

With respect to claims 13, 22, 25 and 26, these claims have been amended to replace the limitation “a fall angle” with “an angle of a fall.” As is known by those having ordinary skill in the art, a “fall” of a gutter refers to the downward slope of the gutter to ensure the water in the guttering is directed towards the down pipe. Applicant submits that the limitation “an angle of a fall” is clear as disclosed and claimed in accordance with its known meaning. In view of the foregoing amendments and remarks, reconsideration and withdrawal of this rejection are respectfully requested.

Claims 7-9 and 11-26 stand rejected under 35 U.S.C. §102(b) for anticipation by U.S. Patent No. 3,864,882 to Lasscock. In view of the foregoing amendments and following remarks, reconsideration and withdrawal of this rejection are respectfully requested.

Independent claims 7, 16 and 25 have been amended to further clarify the structural relationship between the gutter, the mounting device and the plurality of gutter retaining clips when the gutter is retained to the mounting device. Specifically, these claims have been amended to recite that the gutter extends in a first longitudinal direction, that the mounting device comprises an elongated device body that extends in a second longitudinal direction, that the gutter retaining clips are spaced apart from one another in the second longitudinal direction, and that the mounting device is configured such that the first and second longitudinal directions are substantially parallel to each other when the gutter is retained to the mounting device.

Applicant respectfully submits that Lasscock does not teach or suggest all of the claimed limitations of independent claims 7, 16 and 25, as amended.

Lasscock teaches gutter suspension means comprised of a plurality of clips (20) for attaching a gutter (35) to a fascia (10). Each clip (20) includes a front portion (21) having a plurality of tongues (22) arranged in staggered columns punched upwardly and rearwardly from the front portion (21) of the clip (20). Each clip (20) also includes a rearwardly extending portion (27) and a downwardly extending rear portion (28) that fit over the top of the fascia (10) so as to mount the clip (20) over the fascia (10). A recess is formed between the front portion (21) of the clip (20) and a front face panel (11) of the fascia (10) to receive a rear wall (36) of the gutter (35). The tongues (22) engage a longitudinally extending retention rib (37) on the rear wall (36) of the gutter (35) such that the gutter (35) can be snapped into place. Successive sections of gutter (35) can be snapped into position by progressively lower tongues (22) so as to give the gutters (35) a downward slope towards a water collection area. Please note Figs. 1 and 2; column 2, lines 46-53; and column 3, lines 1-51 of Lasscock.

In contrast to the claimed invention, Lasscock teaches that the gutter (44) is attached to the fascia (10) of a building by a plurality of individual clips (20), which are separately fastened to the top of the fascia (10). Each clip (20) includes a plurality of tongues (22) that are disposed in adjacent columns that extend vertically, i.e., transverse to the longitudinal direction of the clip (20) when the gutter (35) is retained to the clip (20), such that a fall is provided to the gutter (35) by engaging the gutter (35) with progressively lower tongues (22) of multiple clips (20). As such, the tongues (22) taught by Lasscock are spaced apart vertically and not in the second longitudinal direction, as is claimed in claims 7, 16 and 25.

Applicant submits that independent claims 7, 16 and 25, as amended, are allowable for at least the foregoing reasons, as the prior art of record, including Lasscock, fails to teach or suggest all of the limitations of these claims.

Claims 8-15 and 27 are dependent upon and add further limitations to independent claim 7. Claims 17-24 and 28 are dependent upon and add further limitations to independent claim 16. Claims 26 and 29 are dependent upon and add further limitations to independent claim

25. These claims are allowable for at least the same reasons discussed above in connection with claims 7, 16 and 25.

Further, with respect to claims 13 and 22, these claims recite that “the retaining clips are aligned so as to correspond to an angle of a fall at an angle with respect to a single edge of the mounting device corresponding to an angle of a fall required when the gutter is in the installed position.” Claim 25 also recites that “the clips are aligned so as to correspond to an angle of a fall required when the gutter is in an installed position.” Applicant submits that Lasscock does not teach or suggest this claimed subject matter as well. As previously discussed, Lasscock teaches a plurality of individual clips (20) having adjacent vertical columns of tongues (22). The tongues (22) are vertically spaced in such a manner that the rib (37) of the gutter (35) engages a lower tongue (22) in each successive clip (20) so as to mount the gutter (35) with the required angle of fall. The tongues (22) in each clip (20) are, therefore, not aligned to correspond to the required angle of fall, as is claimed in claims 13, 22 and 25. Applicant submits that claims 13, 22 and 25 are allowable for these reasons in addition to the reasons previously discussed with respect to claims 7, 16 and 25.

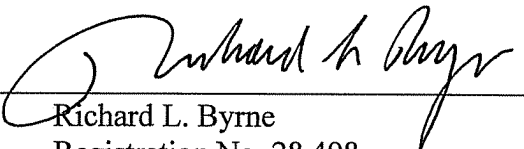
Finally, with respect to new claims 27 and 28, these claims recite that “at least two retaining clips of the mounting device are aligned, such that the at least two retaining clips are able to simultaneously engage the gutter to retain the gutter to the mounting device.” New claim 29 recites that “at least two retaining clips of the mounting device are aligned, engage the gutter, and the step of attaching the mounting device to the building further comprises mounting the gutter to the mounting device such that at least two retaining clips simultaneously engage the gutter.” Lasscock teaches that the tongues (22) of each clip (20) are spaced vertically. The tongues (22) within each clip (20) are, therefore, not aligned such that they can simultaneously engage the gutter to retain the gutter to the mounting device with the second longitudinal direction of the elongated device body being substantially parallel to the first longitudinal direction of the gutter, as is claimed in claims 27-29. Applicant submits that claims 27-29 are

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allowable for these reasons in addition to the reasons previously discussed with respect to claims 7, 16 and 25.

Based on the foregoing amendments and remarks, reconsideration of the rejections and allowance of pending claims 7-9 and 11-29 are respectfully requested.

Respectfully submitted,  
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